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# Republican Policy Committee

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## **The Myths and Facts of Ballistic Missile Defense Legislation in the FY 1996 DoD Authorization Bill**

The Missile Defense Act (MDA) of 1995, which accelerates and provides a focus for theater missile defense programs and establishes a policy for the deployment of a national missile defense system, will be the topic of extensive debate during consideration of S. 1026, the FY 1996 DoD Authorization bill.

Critics will do their best to mischaracterize and misrepresent not only the intent but the likely consequences of the 1995 MDA. To set the record straight, the myths and facts of the 1995 Act are described below. [For a description of this act, see RPC paper, "The Missile Defense Act of 1995", 7/26/95.]

### **Myth: The Anti-Ballistic Missile (ABM) Treaty is the cornerstone of strategic stability.**

#### **Facts:**

The ABM Treaty, which was designed to keep the United States and the Soviet Union vulnerable to ballistic missile attacks from each other, is seriously outdated.

This 1972 treaty sought to prevent massive nuclear war between the United States and the Soviet Union by denying both sides any significant defense against nuclear annihilation. This was MAD — Mutual Assured Destruction.

Now that the Cold War is over, the United States no longer fears a massive Russian nuclear attack. Instead, both the United States and Russia worry about ballistic missiles being launched from other potential hostile nations. Indeed, the threat is greater for Russia, since most of the countries of concern (Iraq, Iran and North Korea) are closer to its borders.

Geography aside, both sides have to worry about nuclear-armed rogue nations. And, as Defense Secretary William Perry admits, "The bad news is that in this era, deterrence may not provide even the cold comfort it did during the Cold War. We may be facing terrorists or rogue regimes with ballistic missiles and nuclear weapons at the same time in the future, and they may not buy into our deterrence theory. Indeed, they may be madder than MAD" [Speech to the Chicago Council on Foreign Relations, 3/8/95].

The ABM Treaty, meanwhile, prevents both the United States and Russia from dealing with shared national security problems. Contrary to common belief, the ABM Treaty did not prohibit parties from deploying national missile defenses. Under the Treaty, each side retains the right to build a limited defense system to protect one specific site. (Russia has today a missile defense system to protect its capital, Moscow. The U.S. deployed a missile defense system at Grand Forks, North Dakota, but dismantled it in the 1970s.) What both sides need now, however, is not limited defense of a specific site, but a layer of protection for the entire country.

And Russia has shown interest in such a plan.

- In January 1992, President Boris Yelstin called for a "global system for protection of the world community [that could be] based on a reorientation of the U.S. SDI [Strategic Defense Initiative] to make use of high technologies developed in Russia's defense complex" [speeches delivered on 1/29/92 and 1/31/92.]
- In the June 16, 1992 joint summit statement, Presidents George Bush and Yeltsin agreed that "it is important to explore the role of defenses in protecting against limited ballistic missile attacks."

## Summary

This effort should be reinvigorated and the Russian interest in mutual defenses against limited attacks should be nurtured. The basis of the ABM Treaty is the doctrine of Mutual Assured Destruction, otherwise known as "hostages for peace." But how can such an arrangement be the basis upon which we build a stable, cooperative relationship with Russia? Cooperative relationships are based upon trust, not fear. And that is just what the 1995 MDA does by setting out a policy to encourage a cooperative transition to a more relevant defense posture for both the United States and Russia to meet the shared threat of ballistic missile proliferation.

**Myth: Any changes to the ABM Treaty, as proposed in S. 1026, will cause the Russians to shelve the START II Treaty and will put strategic offensive arms reductions on hold.**

**Facts:**

While this is a favorite argument of opponents of Ballistic Missile Defenses (BMD), there is no evidence to support this reasoning. In fact, the preponderance of evidence shows that the Russians have concerns about ratifying START II irrespective of Senate action on the ABM Treaty.

- Vladimir Lukin, Chairman of the Parliament's (the Duma) Foreign Relations Committee said: "We need big money to carry out these reductions [in START II], and we don't have it. We do not want to ratify this treaty and then not be able to comply with its terms. We will have to wait until we see how to pay for our promises." [*Washington Post*, 7/2/95, p. C7]
- Other Russians tie START II ratification with other international issues. Speaker of the Federation Council (upper chamber) of the Russian Parliament, Vladimir Shumeyko stated: "We closely link [START II] ratification with the overall situation existing between Russia and NATO. . . . We consider the perseverance of NATO as a stumbling block to our cooperation in the area of disarmament and advancement on the road to peace." [INTERFAX, 1255 GMT, 4/3/95]
- Others see START II as contrary to Russian interests. Viktor Ilyukhin, Chairman of the State Duma Security Committee said: "If this treaty [START II] is fully implemented, the United States will almost double its superiority, while the damage to Russia's national security will be unrecoverable." [ITAR-TASS, 1849 GMT, 2/18/95]
- START II Treaty ratification also faces Russian political obstacles, says two major Russian policy observers: "The outlook for the treaty's [START II] ratification by the Russian Federation's Federal Assembly is not at all promising. Some deputies support the treaty in its current version, but they are obviously the minority in parliament. A sizeable group of opposition deputies will probably vote against ratification of START II for purely political reasons. . . ." [Aleksandr Konovalov, Director, Military Policy and Systems Analysis Center, USA and Canada Institute, Russian Academy of Sciences USA, and Anton Surikov, Senior Scientific Associate, USA and Canada Institute, Russian Academy of Sciences, *Segodnya*, 11/15/94, p. 10]

## Summary

So, while some may claim that the MDA of 1995 will jeopardize Russian ratification of START II, this treaty is in trouble for other reasons which have nothing to do with the ABM Treaty. It would be unwise to allow the Russians, or anyone else, to use the ABM Treaty as a distraction from some of the central concerns highlighted above.

Further, the Russians have linked START II ratification to other issues, such as NATO expansion. If we permit them to link START II to the ABM Treaty, we will encourage Russia to veto a wide range of U.S. national security policies.

Finally, the argument that the MDA will undermine Russian ratification of START II is fundamentally rooted in a Cold War view of the world where defenses were seen as destabilizing. Yet, not only are national missile defense deployments consistent with offensive arms control, such deployments might actually help promote deeper cuts in the future. By reducing the vulnerability of deterrent forces, a defensive system can provide the necessary confidence for each side to reduce its arsenals to levels even lower than those established by START II. Without such an insurance policy, deeper cuts could lead to greater worries about the potential for noncompliance and missile threats from other countries. In this sense, deployment of national missile defense systems by both the United States and Russia could actually improve the likelihood that START II will become a success.

And the U.S. national missile defense system envisioned under the MDA would in no way undermine Russian confidence in the effectiveness of its own strategic deterrent. Even the deployment of a multiple-site, limited defense system, as recommended by this Act, will not significantly alter Russia's ability to threaten the United States.

Instead of arguing for the Cold War status quo, the United States should be seeking to advance beyond the adversarial relationship represented by the present arms control arrangement. And that is what is envisioned under the MDA of 1995.

## **Myth: The Missile Defense Act of 1995 violates, or anticipates a violation, of the 1972 Anti Ballistic Missile (ABM) Treaty.**

### **Facts:**

The 1995 MDA advocates a cooperative transition to a post-ABM Treaty regime, and specifically directs Department of Defense (DoD) to prepare a multi-site national missile defense system that **only once deployed**, would exceed current treaty limitations. **The MDA contains no language that would require or recommend a violation or abrogation of the treaty.**

The MDA focuses on trying to replace the central philosophical feature of the ABM Treaty — Mutual Assured Destruction and its link to the Cold War-era U.S./Soviet relationship — with a less adversarial concept. Such thinking only supports what Administration officials have been saying for some time.

- Secretary of Defense William Perry: "We now have the opportunity to create a new relationship, based not on MAD, not on Mutual Assured Destruction, but rather on another acronym, MAS, or Mutual Assured Safety." [Speech before the Harry L. Stimson Center, 9/20/94]
- Former Deputy Secretary of Defense John Deutch: "The 1972 ABM Treaty does not conform with either the changed geopolitical circumstances or the new technological opportunities of today. We should not be reluctant to negotiate treaty modifications that acknowledge the new realities provided we retain the essential stabilizing purpose of the Treaty." [DoD Memorandum by John Deutch on BMD Program Logic, 2/7/95]

This is just what the 1995 MDA does — it focuses on using existing procedures established by the ABM Treaty to accomplish the goals of national missile defense.

All of the policies and goals outlined in the Missile Defense Act of 1995 can be accomplished through procedures specified by the ABM Treaty, which include:

- **Article XIII, Section 1:** Establishes the Standing Consultative Commission which, under subsection (d) was set up to "consider possible changes in the strategic situation which have a bearing on the provisions of this Treaty."
- **Article XIV, Section 1:** Specifies that "Each Party may propose amendments to this Treaty." (The ABM Treaty was amended in 1974 to change the number of permitted sites from two to one.)
- **Article XV, Section 2 :** Provides that "Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary

events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty."

To charge that the MDA will cause America to violate the ABM Treaty is historically questionable. U.S. compliance with arms control treaties has been meticulous. A recent report from the Arms Control and Disarmament Agency notes that:

**"Our [the U.S.'] deep-seated legal tradition, a political commitment to U.S. arms control agreements that enhance our security and that of our allies and friends, and our open society create powerful incentives to comply with agreements to control nuclear and other weapons. Legal and institutional procedures to ensure compliance have been established, and they reflect the seriousness with which these obligations are taken and reinforce these underlying policies and principles. Department of Defense (DoD) compliance review panels and arms control coordinating committees ensure compliance with the Limited Test Ban Treaty (LTBT) and the Threshold Test Ban Treaty (TTBT). Finally, Congress performs oversight functions through committee hearings and budget allocations."**  
["Adherence to and Compliance with Arms Control Agreements," 6/30/95, p. 5]

It is inconceivable to believe that the MDA's policies, if implemented, will sweep away the many layers of bureaucracies, courts, congressional panels, arms control advocacy groups, and Administration officials that enforce U.S. compliance.

Some critics will also charge that the funding profile for missile defense programs and policies called for under the Act will lead the U.S. to violate the ABM Treaty. This is false. **All of the programs authorized in this year's DoD bill are Treaty-compliant. In fact, the U.S. could deploy one missile defense site and still be in compliance with the ABM Treaty.** It is not until the U.S. deploys additional ABM sites (recommended to occur in 2003 under the Act) that the Treaty's limits would be exceeded. And the opponents' charge that the policies outlined in the 1995 MDA will violate or lead to a violation of the ABM Treaty is factually off-base. A breach is an action, not a thought or plan.

Finally, rather than make a specific recommendation on how to proceed with regard to the ABM Treaty before having thoroughly evaluated all the implications, the Missile Defense Act recommends creation of a Senate Select Committee to conduct a comprehensive review and issue a carefully considered recommendation on how the United States should proceed in this matter.

## **Summary**

Charges that the MDA will lead the United States to violate the ABM Treaty are bogus since the Act focuses on the mechanisms established by the treaty to modify our obligations. And the MDA recognizes the need to take into consideration Russian concerns and sensitivities, which is why the Act urges the President to seek a cooperative transition to a post-ABM Treaty situation.

**Myth: The language on Theater Missile Defense demarcation impedes and restricts the Executive Branch's power to implement and negotiate treaties.**

**Facts:**

Section 238 of the 1995 Missile Defense Act, (language introduced by Senator Warner) merely establishes a clear demarcation between Theater Missile Defenses (TMD) — not covered by and never intended to be limited by the ABM Treaty — and ABM systems, which are explicitly limited by the Treaty.

The demarcation provision states that unless a TMD system is tested against a missile with a range greater than 3,500 kilometers or a speed in excess of 5 kilometers per second (i.e., a strategic missile) it is **not** subject to the limitations contained in the ABM Treaty.

The Administration objects to this provision on the grounds that it infringes on the Executive's right to negotiate and implement treaties. This assertion is false. Nothing in this provision prohibits the President from negotiating with Russia. It simply establishes a demarcation standard and ensures that the ABM Treaty is not applied in areas or ways that are beyond the coverage of the Treaty. The provision uses the Congress' power of the purse to ensure that the Treaty is not inappropriately applied, which is clearly within Congress' Constitutional purview.

Section 238 is necessary for several reasons. First, although theater missile defenses are not covered by the ABM Treaty, the treaty does not clearly distinguish ABM systems from non-ABM systems. Second, anything other than drawing a simple line of demarcation leaves intact the ambiguities of the original treaty. Under such circumstances, the ABM Treaty could be applied to areas it was never intended to regulate, that is, turning the ABM Treaty into a "TMD Treaty."

The Clinton Administration has moved in this direction by offering to limit the performance of U.S. Theater Missile Defense systems in negotiations with Russia over "clarifying" what is and is not covered by the ABM Treaty, despite objections from the Joint Chiefs of Staff (JCS). In a January 3, 1995 memorandum to Deputy Secretary of Defense John Deutch, General John Shalikashvili, JCS Chairman, stated that the services had opposed an Administration proposal to place speed limits on missile defense interceptors. General Shalikashvili also told Deutch that no further concessions should be made and that "it may even be time to think about rolling back the U.S. negotiating position" [*Washington Times*, 2/2/95, p. A8].

Senate Republicans, in numerous letters to the President, have expressed deep concerns over U.S. negotiating positions that appear to be turning the ABM Treaty into a de facto TMD Treaty.

The Administration's negotiating stance is perplexing since senior staff agree that the ABM Treaty limits only "strategic" systems.

- Robert Bell, Special Assistant to the President, National Security Council: **"The ABM Treaty is not — I repeat not — a TMD Treaty. The words 'TMD' do not appear in the Treaty. They are not in there."** [Robert G. Bell, Special Assistant to the President and Senior Director for Defense Policy and Arms Control, NSC, Luncheon Speech, IFPA Symposium, 6/20/95]

## Summary

The Administration's opposition to Section 238 is even more curious because one of its top missile defense priorities is the deployment of "effective theater missile defenses." If the Administration is serious about preserving the U.S. right to deploy effective theater missile defenses, as it claims, it should welcome such a clarifying provision.

Furthermore, the standard contained in the demarcation proposal is identical to the one presented to Russia by the Clinton Administration in November of 1993. The Administration itself has confirmed that the substantive content of this language is identical to its own original negotiating position. It is difficult to understand how, as critics will charge, this language "ties the President's hands" when it merely codifies a standard the President has supported.

Finally, Congress is certainly within its Constitutional right to weigh in on this matter at this time. Clinton Administration officials refuse to state unequivocally that they will send the modified ABM treaty to the Senate for advice and consent. Legislative language exists that requires the President to send any "substantively modified" ABM Treaty to the Senate for ratification. However, the Administration so far has claimed that demarcation would merely clarify obligations under the original treaty and would not constitute a substantive modification. In this circumstance, the Senate would be denied its Constitutional right to advice and consent.



## **Myth: There's not a sufficient threat to justify the establishment of a national missile defense system.**

### **Facts:**

The threat to the United States from weapons of mass destruction (WMD) is growing as countries recognize the military and political advantages of nuclear, chemical and biological weapons and ballistic missiles.

- "Currently, more than 25 countries possess or may be developing nuclear, chemical or biological weapons. This situation is exacerbated by the difficulties of controlling the spread of sensitive technologies supporting ballistic missile development." [Lt. Gen. Malcolm O'Neill, Director, Ballistic Missile Defense Organization, Prepared statement before the Senate Committee on Appropriations, Subcommittee on Defense, 6/27/95]
- "Today, more than 15 nations have ballistic missiles; by the year 2000, perhaps 20 nations will have them. Many of the countries that are developing or acquiring ballistic missiles are also seeking to acquire, or already have, weapons of mass destruction." [Lt. Gen. Malcolm O'Neill, 6/27/95, see above]
- "The current threat includes tens of countries armed with ballistic missiles, hundreds of missile launchers, and thousands of missiles with ranges from 80 to greater than 3,000 kilometers. While these weapons systems pose a threat today that is largely regional in character, the trend is clearly in the direction of systems of increasing range, lethality, accuracy and sophistication." [Lt. Gen. Malcolm O'Neill, 6/27/95, see above]

North Korea is a case in point:

- Former Director of the CIA, James Woolsey: "We can confirm that the North Koreans are developing two additional missiles with ranges greater than the 1,000 kilometer missile that it flew last year. These new missiles. . . could put at risk all of North East Asia, Southeast Asia and the Pacific area, and, if exported to the Middle East, could threaten Europe as well." [Statement before the Senate Governmental Affairs Committee, 2/24/93]
- Then Deputy Secretary of Defense John Deutch: "If the North Koreans field the Taepo Dong 2 missile, Guam, Alaska and parts of Hawaii would potentially be at risk." [Deutch's statement was made in 1994, and was quoted by Lt. Gen. Malcolm O'Neill, 6/27/95]

While opponents of National Missile Defense will cite the Intelligence Community's estimate that no new threat to the United States will develop for ten years, this estimate only pertains to new indigenously developed missiles. In fact, the Intelligence Community has confirmed that there are numerous ways for hostile countries to acquire intercontinental ballistic missiles.

And there are many countries willing to participate in such diversions. One way is through the selling of missile technology, a common practice for China and North Korea. The consequences are that **"the acquisition of key production technologies and technical expertise would speed up ICBM development by proliferating countries,"** according to Woolsey [hearing of the Subcommittee on International Security, International Organizations and Human Rights, of the House Foreign Affairs Committee, 7/28/93]. And perhaps even more dangerous, according to the former CIA director, is that these diversions could be done covertly, providing a "short-cut" approach that may lessen the time it takes to place the U.S. directly at risk without the U.S. being aware of such threat.

Another means by which a country may acquire more lethal and longer-range missile capabilities is either to indigenously develop or to purchase space-launch vehicles. Having technology identical to ballistic missile technology, space launch vehicles can be rapidly converted, with little or no warning and minor modifications, to ICBMs capable of delivering weapons of mass destruction.

The threat becomes even more real since the purchase of space launch vehicles can provide a country with a ballistic missile capability under the guise of peaceful activity. Already there are reports that Russia is attempting to market modified versions of its SS-25 ICBM as a space launch vehicle.

## Summary

To argue that there is no threat today is strategically shortsighted and technically incorrect. Even if we get started today, by the time we develop and deploy a national missile defense system, the U.S. will almost certainly face new ballistic missile threats. Unfortunately, it will take almost ten years to develop and deploy even a limited defense system.

Finally, even if we knew with certainty that no new threat would materialize for ten years, there would still be a strong case for developing and deploying a national missile defense system to deter countries from acquiring an ICBM capability. A vulnerable United States merely invites proliferation, blackmail and even aggression.

**Myth: If a rogue nation were to strike the United States with a nuclear weapon, it would be delivered in the form of a suitcase bomb on an aircraft or smuggled onboard a ship. A nuclear bomb could even be fashioned like the Oklahoma bomb. BMD does not address these threats.**

**Facts:**

Nuclear weapons can be delivered in many ways, and they can also be stopped in many ways. The Coast Guard checks ships off of our coast. The FBI tracks terrorists and spies. The Air Force intercepts bombers. The DEA catches drug smugglers. But the only defense against a ballistic missile is BMD.

And the ballistic missile is the weapon of choice for Third World countries. Ballistic missiles signify technological advancement, and are thus a source of prestige in the developing world. Missiles have become symbols of power, acquiring a mystique unrelated to their capabilities. Regional powers that have acquired these weapons can threaten the security of global powers and extend influence throughout the region.

**Summary**

The charge cited above is an old and useless argument refuted by our every-day experiences. Murder laws have failed to stop murders. Should we retire all the homicide detectives? And, a nuclear weapon can destroy the Army's tanks. Should the U.S. stop buying modern M1A2 tanks for our soldiers?

Without ballistic missile defenses, the U.S. will virtually guarantee a missile will hit its target. There are many incentives for hostile countries to want ballistic missiles but none more compelling than the lack of defenses.

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